**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**
**WRIT PETITION NO.7495 OF 2003**

S.H.Pradhan
Assistant,
Public Works Department,
Administration of Dadra and
Nagar Haveli, Silvassa-396 230. ...Petitioner.

V/s.

1. Union of India
through Secretary,
Ministry of Home Affairs,
North Block, New Delhi-110 001.

2. Administrator of Dadra & Nagar
Haveli through Finance
Secretary-cum-Secretary, PWD,
Silvassa-396 230. ...Respondents.

Mr.D.V.Gangal for Petitioner.

Mr.R.Ashokan for Respondents.

**CORAM: H.L.GOKHALE &**
**J.H.BHATIA, JJ.**
**DATE : 3rd July, 2006.**

**P.C.:**

1. Heard Mr.Gangal for the Petitioner and Mr.Ashokan for the Respondents.

2. **Rule**. **Rule** made returnable forthwith. Mr.Ashokan waives service for the Respondents.

3. The Petitioner by way of this Writ Petition is challenging the order dated 30.06.2003 passed by the

Central Administrative Tribunal confirming the Order dated 06.10.2000 passed by the Finance Secretary (Respondent No.2). The latter Order imposes upon the Petitioner a penalty of reduction to a lower stage in the time scale of pay by two stages from Rs.7,400/- to Rs.7,100/- in the time scale of Rs.5000-150-8000 with effect from 01.11.2000 for a period of two years with cumulative effect.

4. The facts of the case are as follows:

The Petitioner was at the relevant time working as the Sub-Registrar under the Mamlatdar. The charge alleged against the Petitioner is that he registered a sale deed vide No.186 in Book No.31 on 24.10.1988 in respect of N.A.land admeasuring 450 square metres of Sr.No.346 P of Village Silvassa when sale of the land was prohibited. The above land was already converted from Agriculture to Non-Agriculture vide Collector’s Order No.RD/LDN/98/85/1349/86 dated 06.05.1986, but subject to the condition that the said Non-Agriculture use will only be for personal purposes and that no part of the same shall be transferred, sold or exchanged. In spite of the said Order, (a copy of which was in the custody of the Petitioner), he registered the sale deed

in respect of the said land.

5. An inquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 was initiated against the Petitioner on 20.09.1994. The said Inquiry Officer in his report dated 28.7.95 found that on the basis of documentary evidence and testimony of two witnesses (including the Purchaser) the charge levelled against the Petitioner was not proved.

6. Thereafter, the Development Commissioner, Daman, Diu & Dadar Nagar Haveli in exercise of power conferred by Sub Rule (2) read with Government of India's instruction no.15 below rule 14 of CCS (CCA) Rules, 1965 re-opened the inquiry and appointed the Deputy Conservator of Forests, Dadra Nagar Haveli as Inquiry Officer on the ground that the first Inquiry Officer had not fully and properly inquired into the case. The said second Inquiry Officer concluded that charges levelled against the Petitioner are proved beyond doubt in his order dated 13.6.2000.

7. The Respondent No.2, i.e., Finance Secretary after a careful consideration of the said inquiry reports was of the opinion that there was a clear violation of instructions as well as provisions of the Revenue Laws and therefore, by his Order dated 06.10.2000 thought it fit to

impose a major penalty of reduction to the lower stage in the time scale of pay by two stages for a period of two years with cumulative effect.

8. The Petitioner made an appeal to the Administrator and thereafter filed an application being Original Application No.441 of 2001 before the Central Administrative Tribunal. The Tribunal by its order dated 30.06.2003 rejected the Original Application as being devoid of any merits.

9. The case of the Petitioner in the inquiries has been that the Sub-Registrar has only to check that a document brought before him for registration complies with all the stipulations laid down in Sections 34 and 35 of the Registration Act. Be that as it may the Petitioner contends that even if the alleged act is considered as proved, the punishment awarded for a singular act of omission is too harsh.

10. The Petitioner places reliance on the judgment of the Supreme Court in **U.P.State Road Transport Corporation and Ors. v. Mahesh Kumar Mishra & Ors. reported in 2000 SCC (L & S) 356** wherein the Apex Court has held on the basis of 3-Judge Bench judgment in **B.C.Chaturvedi v. Union of India (1995)6 SCC 749** which is a service matter

of Income Tax Officer going to Central Administrative Tribunal that " the High Court can interfere with the punishment inflicted upon the delinquent employee if, that penalty, shocks the conscience of the Court."

11. The Bench of this Court preceding us (Chief Justice and Dr.Chandrachud, J.) was pleased to observe after hearing the learned counsel appearing for the parties that, prima facie the punishment was too harsh. They, therefore, suggested to the Respondents through their counsel that a lesser punishment be imposed.

12. The learned counsel appearing for the Respondents submits a letter from the Respondents addressed to him dated 15.06.2006 which is taken on record. Vide this letter the Respondents state that due to a technical difficulty viz., that the Disciplinary Authority after decision of the Appellant Authority and Administrator's Court has no authority to reconsider the penalty imposed upon the delinquent. The Respondents have however, left it to the Court to pass appropriate Orders. This is in deference to the suggestion made by the earlier bench.

13. In view thereof, we agree with the view of the preceding bench that the punishment imposed is too harsh. Even if the charge levelled against the Petitioner has

been proved, it amounts only to a single act of omission. The Petitioner has, but for this one act, an unblemished service record.

14. The penalty of reduction in payscale at two stages by postponing of two increments with cumulative effect will adversely affect the Petitioner and his family. The same is disproportionate to his single act of omission. Regard must also be had to the fact that the first inquiry had exonerated the Petitioner.

15. In the said circumstances, we are in agreement with the preceding Bench that the punishment be reduced to stoppage of two increments without cumulative effect.

16. In the circumstances, **Rule** is made absolute. Impugned disciplinary orders passed by the Respondents against the Petitioner are set aside and the punishment imposed against the Petitioner will stand substituted by stoppage of two increments without cumulative effect. We are told that the Petitioner is retired. In the circumstances, his pension will be calculated accordingly and he will be given benefit of this Order. There is no order as to costs.

...

**(H.L.GOKHALE,J.)**

**(J.H.BHATIA, J.)**